

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TAFT BURTTON,

Defendant.

CASE NO. 8:08CR7

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's motion for leave to proceed in forma pauperis on appeal (Filing No. 169). A notice of appeal (Filing No. 168) has been filed.

The Court previously summarily denied the Defendant's motion for a reduction in sentence under the Fair Sentencing Act of 2010 ("Act"). As the Court stated, under current Eighth Circuit law the Act is not retroactive with respect to altering mandatory minimum crack cocaine sentences. The Court certifies that the appeal is not taken in good faith and, therefore, the motion to proceed in forma pauperis is denied. 28 U.S.C. § 1915(a)(3).

IT IS ORDERED:

1. The Defendant's motion for leave to proceed in forma pauperis on appeal (Filing No. 169) is denied; and
2. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

DATED this 5th day of March, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge